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UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/053,645  
Applicants : R.E. KLEM, et al.  
Filed : January 22, 2002  
Title : METHODS AND COMPOSITIONS FOR TREATING A CELL-  
PROLIFERATIVE DISORDER USING CRE DECOY  
OLIGOMERS, BCL-2 ANTISENSE OLIGOMERS, AND  
HYBRID OLIGOMERS THEREOF  
  
Confirmation No. : 3607  
Art Unit : 1635  
Examiner : Sean McGarry  
Docket No. : 12475/51002  
Customer No. : 23838

**Mail Stop Amendment**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO ELECTION/RESTRICTION REQUIREMENT**

Sir:

This is in response to the Office Action from the Examiner mailed January 28, 2005 setting forth a shortened statutory response period of one month. Accordingly, this response is due on or before February 28, 2005.

The Examiner required restriction to one of the following groups:

- I. Claims 1-8 and 67-71, drawn to a hybrid oligomer comprising a CRE sequences and a sequence that binds to bcl-2 pre-mRNA or RNA, classified in class 536, subclass 24.5
- II. Claims 9-49, drawn to a method of treating or preventing cancer or inhibiting cancer cell growth via the administration of a hybrid oligomer comprising a CRE sequences and a sequence that binds to bcl-2 pre-mRNA or RNA, classified in class 514, subclass 44.

- III. Claims 50-66, drawn to a method of treating or preventing cancer via the administration of an antisense oligonucleotide targeted to bcl-2 and a CRE decoy oligomer, classified in class 514, subclass 44.

The Applicants elect with traverse Group I, claims 1-8 and 67-71, for prosecution in the present application. Applicants believe that Group I and Group II are not distinct because the method of Group II as claimed cannot be performed with a materially different compound than that of Group I as alleged by the Examiner. Group II claims require that the method is practiced using the exact same hybrid oligomer recited in Group I. Therefore, Group II claims cannot be practiced with the suggested small molecule chemotherapeutics. Accordingly, the Applicants believe that the burden of showing that the process of using as claimed can be practiced with another materially different product has not been met. (MPEP § 806.05(h), first paragraph). Accordingly, the restriction with respect to Group I and Group II should be withdrawn. Applicants reserve the right to rejoin the Group II process claims when a Group I claim is found allowable.

If any additional fees are required in connection with this matter, the Commissioner is authorized to charge or credit Deposit Account No. 11-0600 for such fees.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

KENYON & KENYON



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Dated: 2/25/05

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